

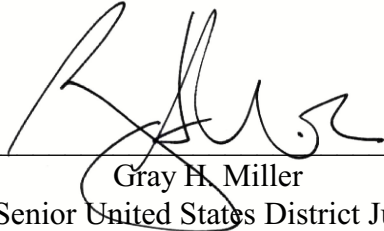
According to the local rules, a failure to timely respond to a pending motion “will be taken as a representation of no opposition.” S.D. Tex. L.R. 7.4. Nevertheless, a “motion for summary judgment cannot be granted simply because there is no opposition, even if failure to oppose violated a local rule.” *Hetzel v. Bethlehem Steel Corp.*, 50 F.3d 360, 362 n.3 (5th Cir. 1995) (citing *Hibernia Nat’l Bank v. Admin. Cent. Sociedad Anonima*, 776 F.2d 1277, 1279 (5th Cir. 1985)). Defendants still have “the burden of establishing the absence of a genuine issue of material fact and, unless [they] ha[ve] done so, the court may not grant the motion, regardless of whether any response was filed.” *See Hetzel*, 50 F.3d at 362 n.3. However, a district court may accept as undisputed the facts

set forth in the motion. *See Eversley v. MBank Dallas*, 843 F.2d 172, 174 (5th Cir. 1988) (internal citations omitted).

The court has examined the record and applicable law and is satisfied that, for the reasons set forth in defendants' motion for summary judgment, no genuine issue of material fact exists. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S.Ct. 2548, 91 L. Ed. 2d 265 (1986); *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994) (*en banc*).

Accordingly, defendants' motion for summary judgment (Dkt. 21) is GRANTED.

Signed at Houston, Texas on January 10, 2020.



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Gray H. Miller  
Senior United States District Judge